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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,004	12/10/2003	Joy Francine Jordan	17442	9403

23556 7590 10/01/2007

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EXAMINER	
SINGH, ARTI R	

ART UNIT	PAPER NUMBER
1771	

MAIL DATE	DELIVERY MODE
10/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/734,004	JORDAN ET AL.	
	Examiner	Art Unit	
	Ms. Arti Singh	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on *19 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *18,22 and 24-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *18,22 and 24-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

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DETAILED ACTION

Response to Amendment

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks dated 07/19/07. Applicant's amendments have been entered. Currently, the claims under prosecution are 18, 22, and 24-36.

Response to Arguments

2. Applicant's arguments with respect to claims 18, 22, and 24-36 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting (maintained as requested)

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be

commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 18, 22, and 24-36 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-26 of copending Application No. 10/734006. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the pending application and the instant application appear to be obvious variants of one another and encompass overlapping subject matter.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103 (amended rejection)

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 18, 22, and 24- are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6440556 B2 issued to Matsui et al. in view of USPN 6051249 A issued to Samuelsen further in view of USPN 6011194 issued to Buglino et al.

Matsui et al teaches spontaneously degradable fibers comprising an aliphatic polyester copolymerized with a polyglycolic acid (column 7) or poly l lactic acid (column 40) which are

then made into yarns, webs, fabrics, woven and nonwovens (column 4) which are considered sheet like materials to a skilled artisan. These fibers/fabrics are used in a plethora of articles such as medical devices, clothing (column 11), industrial materials, household goods and the like (column 44, liens 20). Matsui et al incorporate into their fiber hydrophilic compound to further enhance the final product (column 33 onwards and column 43, line 68+). Matsui et al do not specifically teach that the fiber or resultant fabric to be uniformly coated with a hydrophilic coating in an amount of 0.01 to about 2% and that this coating is a polysaccharide or a modified polysaccharide. Samuelsen remedies this.

Samuelsen teaches a dressing comprising a body-facing layer of a thermoplastic adhesive and a carrier film and an absorbent material. The absorbent material is equivalent to the web or fabric or woven or nonwoven of Matsui and the sheet like material desired by Applicant. The coating is equivalent to the carrier film and can be a polysaccharide. Since the coating is a film, it is inherent to the structure of a film that it be uniform. It should also be noted that one skilled in the art of fabrics knows that wovens and nonwovens can have utility in medical, hygiene, disposable and durable nonwoven applications where biodegradability can advantageously be combined with a fabric in a laminate function. Some applications are diapers, training pants, and feminine absorbent articles, among others.

A person having ordinary skill in the art at the time the invention was made would have found it obvious at the time the invention was made to have employed the coating of Samuelsen on the fibers/fabric of Matsui et al. One would have been motivated to do so, in order to create a laminate that has superior wicking properties.

With regard to the percentage of coating applied to the fabric, being 0.01 to about 2%, Samuelsen shows many examples but all exceed the end point of 2% range. However, it is the position of the Examiner that optimizing the amount of coating is a result effective variable.

The greater the amount of coating or the lesser the amount of coating directly affects the strength of the fabric and/or laminate. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have used about 0.01 to about 2.0 percent by weight of coating, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F. 2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have optimized the amount of coating, in this case lessened the amount of coating, motivated by the desire to obtain a laminate that was highly flexible yet still absorbent.

USPN 6051249 issued to Samuelson teaches a dressing body to which side may have a thermoplastic film made from polysaccrides. Samuelson does not specifically state that the dressing body is in fact fibrous in nature. Buglino et al. remedy this.

USPN 6011194 issued to Buglino et al. teach that the body of a dressing or in this case referred to as to as the wound pad can also be of any convenient material or materials used as wound dressings in the wound care art. Typical materials include, but are not limited to, natural and synthetic polymeric absorbents, hydrocolloid absorbents, cellulosic absorbents, gum and resin absorbents, inorganic absorbents, gel-forming fluid-interactive adhesive dressings, wool, cotton, lint and superabsorbents, i.e., water swellable polymers typically in the form of fiber or flock material (column 4, line 60+). Thus, Buglino et al. meet the limitation that the body of the dressing can be fibrous. Therefore, a person having ordinary skill in the art at the time the invention was made would have found it obvious to have employed the fibrous structure as the body of the wound dressing in the composite of Samuelson. One would have been motivated to so in order to create a composite dressing that is light in weight and porous. Additionally, it should be noted that the above listed wound dressings are functional equivalents.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 571-272-1483. The examiner can normally be reached on M-T 9-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Arti Singh/
Primary Examiner
Art Unit 1771

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